

## NOTICE OF INTENT TO ACT UPON A REGULATION

### Notice of Hearing for the Adoption of Regulations of the Nevada State Board of Education Nevada State Board for Career and Technical Education

The Nevada State Board of Education/Nevada State Board for Career and Technical Education will hold a public hearing on **June 16, 2016 to be video conferenced in the Board Room at the Nevada Department of Education Offices, 700 East Fifth Street Carson City Nevada and 9890 South Maryland Parkway, Las Vegas, Nevada.**

The purpose of the hearing is to receive comments from all interested persons regarding the amendments/adoptions/repeal of regulations of the Nevada Administrative Code (NAC) 385.

The time for the hearing is scheduled as follows:

#### **9:45 A.M. Public Hearing and Possible Adoption of Proposed regulation to R126-15; NAC 385, Alternative Performance Framework.**

**The following information is provided pursuant to the requirements of NRS 233B.0603:**

1. The need and the purpose of the proposed regulations/amendments.  
SB 460 Section 2 requires the State Board to adopt regulations that prescribe an alternative performance framework to evaluate public schools that are approved pursuant to section 3 of SB 460.
2. Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.  
The regulation describes the manner in which the progress of students enrolled in a public school for which an alternative performance framework has been approved will be accounted for and the manner in which the school will be accounted for within the statewide system of accountability.
3. There is no economic effect of the regulation on the business that it regulates and no impact on the public.
4. The estimated cost to the agency for enforcement of the proposed regulation is none.
5. There is no duplication or overlap of regulations of state or local government agencies.
6. This regulation is not required pursuant to federal law.
7. There is no federal law affecting or overlapping the proposed regulations.
8. The proposed regulations do not establish a new fee nor increase an existing fee of the regulating agency

Persons wishing to comment upon the proposed action of the State Board of Education may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the, Nevada Department of Education, 700 E. 5<sup>th</sup> St, Carson City, NV 89701 June 2, 2016. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Department of Education/State Board of Education may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the Nevada Department of Education, 700 East Fifth St, Carson City, Nevada 89701 and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies, if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations: Nevada Department of Education, both locations; 17 Nevada County School District Offices; 16 Nevada Public Libraries; both locations; and Nevada State Library and Archives.

5/11/16

**REVISED PROPOSED REGULATION OF THE  
STATE BOARD OF EDUCATION**

**LCB File No. R126-15**

April 28, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-5, Section 2 of Senate Bill No. 460, chapter 429, Statutes of Nevada 2015, at page 2458 (NRS 385A.730).

A REGULATION relating to education; providing certain requirements for a school to be eligible to be rated using an alternative performance framework; requiring an application for a school to be rated using an alternative performance framework to include certain information; providing for the discontinuation of rating a school using the alternative performance framework; prescribing the manner for measuring pupil achievement and school performance at a school that is approved to be rated using an alternative performance framework; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the State Board of Education to adopt regulations that prescribe an alternative performance framework so that certain schools serving certain populations of pupils may be evaluated using the alternative framework. (Section 2 of Senate Bill No. 460, chapter 429, Statutes of Nevada 2015, at page 2458 (NRS 385A.730)) Existing law makes a school eligible to be rated using an alternative performance framework if the mission of the school is to serve pupils who fall within one of six categories and 75 percent of the pupils at the school fall within one or more of those categories. One of the categories is pupils who are “academically disadvantaged,” which is defined as including a pupil who has a “deficiency in the credits required to graduate on time.” (Section 3 of Senate Bill No. 460, chapter 429, Statutes of Nevada 2015, at page 2458 (NRS 385A.740)) **Section 2** of this regulation interprets when such a deficiency in credits exists by specifying the deficient number of credits in each grade of high school.

Existing law requires a school that wishes to be rated using the alternative performance framework to request the board of trustees of the school district or the sponsor of the charter school, as applicable, to apply to the State Board for approval to be rated using the alternative

performance framework. (Section 3 of Senate Bill No. 460, chapter 429, Statutes of Nevada 2015, at page 2458 (NRS 385A.740)) **Section 3** of this regulation requires such an application to include certain information concerning pupils enrolled in the school.

**Section 4** of this regulation requires the board of trustees of a school district in which a school that is approved to be rated using an alternative performance framework is located or the sponsor of a charter school that is approved to be rated using an alternative performance framework, as applicable, to notify the State Board if the school is no longer eligible or no longer wishes to be rated using an alternative performance framework. **Section 4** also: (1) provides that the State Board will continue to use the alternative performance framework to rate a school for which such notice is received until the next school year; (2) authorizes the State Board to require the board of trustees of a school district or the sponsor of a charter school, as applicable, to update the information included on the application to be rated using the alternative performance framework once every 4 years; and (3) requires a school that no longer qualifies or no longer wishes to be rated using the alternative performance framework to be evaluated using the previously established performance framework for the school during the next school year.

**Section 5** of this regulation requires the Department of Education to: (1) establish a baseline level of achievement for each school that is approved to be rated using an alternative performance framework; and (2) measure pupil achievement and school performance using this baseline. **Section 5** also requires the Department to determine whether each school that is approved to be rated using an alternative performance framework is making reasonable improvements toward meeting the performance targets established pursuant to the statewide system of accountability. Finally, **section 5** requires the results of certain examinations to be reported as a percentage of the performance targets established pursuant to the statewide system of accountability.

**Section 1.** Chapter 385 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

**Sec. 2.** *As used in section 3 of Senate Bill No. 460, chapter 429, Statutes of Nevada 2015, at page 2458 (NRS 385A.740), the Department will interpret the term “deficiency in the credits required to graduate on time” to mean a pupil who, upon completion of:*

- 1. Ninth grade or two semesters of high school, has zero credits.*
- 2. Tenth grade or four semesters of high school, has five or fewer credits.*
- 3. Eleventh grade or six semesters of high school, has 11 or fewer credits.*

4. *Twelfth grade or eight semesters of high school, has 17 or fewer credits.*

Sec. 3. 1. *The board of trustees of a school district or the sponsor of a charter school that applies to have a school within the district or the charter school, as applicable, rated by the State Board using an alternative performance framework must submit with its application a record of:*

(a) *The total number of pupils enrolled in the school; and*

(b) *The total number of pupils enrolled in the school who fall within one or more of the categories set forth in paragraph (a) of subsection 3 of section 3 of Senate Bill No. 460, chapter 429, Statutes of Nevada 2015, at page 2458 (NRS 385A.740).*

2. *In determining the total number of pupils for purposes of paragraph (b) of subsection 1, a school may only count a pupil one time even if the pupil falls within more than one category.*

Sec. 4. 1. *The board of trustees of a school district in which a public school has been approved by the State Board to be rated using an alternative performance framework or the sponsor of a charter school that has been approved to be rated using an alternative performance framework, as applicable, must notify the State Board if:*

(a) *The school no longer meets the requirements for eligibility to be rated using the alternative performance framework set forth in subsection 3 of section 3 of Senate Bill No. 460, chapter 429, Statutes of Nevada 2015, at page 2458 (NRS 385A.740); or*

(b) *The school no longer wishes to be rated using an alternative performance framework.*

2. *The State Board will continue to use the alternative performance framework to rate a school for which notice is received pursuant to subsection 1, or for which the State Board*

*determines no longer meets the requirements to be rated using the alternative performance framework set forth in subsection 3 of section 3 of Senate Bill No. 460, chapter 429, Statutes of Nevada 2015, at page 2458 (NRS 385A.740), until the next school year.*

*3. After a school has been rated using the alternative performance framework for 4 years, the State Board may require the board of trustees of the school district or the sponsor of the charter school, as applicable, to update the information that was included on the application that was submitted to be rated using the alternative performance framework pursuant to subsection 1 of section 3 of this regulation to verify whether the school continues to meet the requirements for eligibility to be rated using the alternative performance framework.*

*4. A school that no longer qualifies or no longer wishes to be rated using the alternative performance framework must be rated during the next school year using the performance framework for the school that was used before it was rated using the alternative performance framework.*

**Sec. 5. 1.** *For each school that is approved by the State Board to be rated using an alternative performance framework pursuant to section 3 of Senate Bill No. 460, chapter 429, Statutes of Nevada 2015, at page 2458 (NRS 385A.740), the Department will:*

*(a) As soon as sufficient data is available, establish a baseline level of achievement in categories selected by the Department against which pupil achievement and school performance will be rated each year for the school. Such categories may include, without limitation:*

*(1) Results of pupils enrolled at the school on the examinations administered pursuant to NRS 389.550, as amended by section 13 of Senate Bill No. 25, chapter 371, Statutes of*

*Nevada 2015 at page 2098, and section 1 of Senate Bill No. 75, chapter 228, Statutes of Nevada 2015, at page 1083, and NRS 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807;*

*(2) The rate of attendance of pupils;*

*(3) The number of credits completed by each pupil each year;*

*(4) Graduation rates;*

*(5) Results from a survey concerning the culture of the school;*

*(6) Information on the discipline of pupils at the school, including, without limitation, records of suspensions or expulsions of pupils; and*

*(7) The progress in meeting the objectives and goals described in the individualized education program of pupils at the school.*

*(b) As soon as practicable, measure the pupil achievement and school performance for the school by comparing the results in the categories selected pursuant to subparagraphs (1) to (7), inclusive, of paragraph (a) for the current school year with those of the immediately preceding school year.*

*(c) Determine whether the school is making reasonable improvement toward meeting performance targets established pursuant to the statewide system of accountability for public schools.*

*2. Results of pupils on the examinations administered pursuant to NRS 389.550, as amended by section 13 of Senate Bill No. 25, chapter 371, Statutes of Nevada 2015, at page 2098, and section 1 of Senate Bill No. 75, chapter 228, Statutes of Nevada 2015, at page 1083, and NRS 389.805 and the college and career readiness assessment administered pursuant to*

*NRS 389.807 must be reported as a percentage of the performance targets established pursuant to the statewide system of accountability.*



BRIAN SANDOVAL  
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STEVE CANAVERO, Ph.D.  
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SMALL BUSINESS IMPACT STATEMENT  
PURSUANT NRS 233B.0608

Date: May 11, 2016

Re: Workshop to Adopt Regulations Concerning the Alternative Performance Framework, scheduled for June 16, 2016.

I, Peter Zutz, Administrator of ADAM, do hereby certify that, to the best of my knowledge or belief:

1. The proposed new regulations to be added to NAC Chapter 385 concerning the Alternative Performance Framework are not likely to (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business. The proposed regulations will prescribe: (1) an alternative performance framework to evaluate certain school which serve certain populations; and (2) the manner in which such schools will be included in the statewide system of accountability.
2. A concerted effort was made to determine any economic burden. The Department of Education has relied legislative testimony during the consideration and passage of Senate Bill 460 and consultation with experts.
3. All relevant materials were reviewed and the Department considered its history with implementing similar regulations; the proposed changes are within the historic scope of the Department's activities and present no significant cost of enforcement.
4. Comment has not been solicited from small businesses, and no summary of their response is provided, because small businesses are not impacted by this regulation and thus no burden or economic impact can be assessed. Any impact is positive and was considered during legislative testimony.

I hereby further certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter Zutz", written over a horizontal line.

PETER ZUTZ  
Director, ADAM  
Nevada Department of Education